

REMARKS

Claims 1, 4-6, 19-23, 25-30, 33-37, 39, 40 and 43-47 remain in the application. Claims 23 and 43 have been objected to, as being dependent on a rejected claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and intervening claim.

Claims 1 and 40, all independent claims in the application, have been amended with the a structural limitation, wherein the relatively large outer boundary of the claimed device includes fibrous reinforcing material. Support for the amendment is at paragraph 67 of the specification. No new matter is added.

In paragraph 4 of the Action, claims 1, 4-6, 19-22, 25-30, 33-37, 39-40, and 44-47 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2004/0117031 (Stack et al.). Issue is taken with that position.

Independent claims 1 and 40 now include a structural limitation whereby the relatively large outer boundary of the claimed device includes fibrous reinforcing material. As stated in the specification at paragraph 67, the reinforcement is present so that the device resists tearing. This is particularly important for the applicant's invention because the device is intended (and adapted for) placement in an intermediate portion of the stomach of patient in a manner establishing two chambers in the stomach. The reinforcement is particularly important so that the device, when implanted in a patient's stomach, can withstand the radial stresses caused by normal stomach activity during the digestion process.

In contrast, the cited Stack reference does not teach or suggest a reinforcement limitation which would withstand radial stresses imparted by motion of intermediate portions of the stomach wall, nor is there any need for one in his device, as he teaches implantation at or near the gastro-esophageal junction region, which does not undergo significant radial motion which might tear the device at its peripheral edge.

For this reason, it is submitted that claims 1 and 40, as amended, are patentably distinct over the Stack patent and there is no proper basis for the § 102 rejection. The rejection of claims 1 and 40, and all claims dependent thereon, should now be reconsidered and withdrawn.

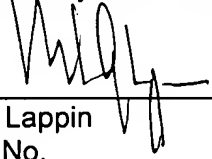
CONCLUSION

For the above reasons, it is submitted that there now is no proper basis for the §102 rejection of amended claims 1 and 40, and claims 4-6, 19-23, 25-30, 33-37, 39 and 43-47 dependent thereon, and that the rejection should be reconsidered and withdrawn.

All claims 1, 4-6, 19-23, 25-30, 33-37, 39, 40 and 43-47 are believed to be in condition for allowance. Moreover, the withdrawn claims should be reinstated as dependent on now-believed-to-be allowable claims 1-40. Passage to issue of all claims 1-50 is requested.

A Request for a Three (3) Month Extension of Time, up to and including November 2, 2006, is included herewith. Pursuant to 37 C.F.R. §1.136(a)(2), the Examiner is authorized to charge an fee under 37 C.F.R. §1.17 applicable in this instant, as well as in future communications, to Deposit Account, 50-3431.

Respectfully submitted,



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